

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

January 23, 2006  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Chelminiak, and Councilmembers Balducci, Davidson, Lee, Marshall, and Noble

ABSENT: None.

1. Executive Session

Mayor Degginger called the meeting to order at 6:01 p.m. [The Executive Session was deferred to the end of the public meeting.]

2. Oral Communications

- (a) Jacqueline Curran, a volunteer with Temple B'nai Torah, coordinates supplies and donations for Tent City 4. She said the community has been so generous that the Temple has been able to share supplies with other shelters and homeless camps. She encouraged the Council to grant an extension of Tent City 4's stay in Bellevue to 90 days. Ms. Curran said several residents have been able to move from the camp to transitional housing in recent months. She encouraged Council's support of the proposed Consent Decree.
- (b) Jeff Silesky, a Temple B'nai Torah Board Member, noted he has children at the Jewish Day School on the Temple site. He commended Councilmembers and City staff for their efforts with regard to Tent City 4. He encouraged Council to support Resolution No. 7323, which he feels strikes a fair and reasonable balance between the parties. Mr. Silesky invited Council and City staff to a celebration at the Temple on March 17.
- (c) Marian Wirtz lives approximately four blocks from the Temple. She feels the homeless encampment has been a non-event with no apparent impact to the community. She expressed support for the proposed Consent Decree.
- (d) Scott St. Clair, Kirkland, testified against homeless encampments. He noted a Seattle Times article dated November 17, 2005, in which Steve Arnold, a Tent City 4 resident,

was quoted as saying most citizens will not know the encampment is present. Mr. St. Clair said Mr. Arnold was arrested twice in the same day for disorderly conduct and assault at the Kirkland Teen Center.

- (e) Thalia Opdycke spoke in opposition to Tent City 4 and the proposed Consent Decree. She feels the definition of a city does not include a nomadic existence.
- (f) Karen Morris questioned whether the Consent Decree will enable Bellevue to enforce a 18-month waiting period between homeless encampments in the city limits. She expressed concern that the Consent Decree reverses important requirements of the temporary encampments ordinance. Ms. Morris is disappointed that neighborhood groups were not involved in the decision process.
- (g) Peggy Hotes commended the Council for endorsing the Ten-Year Plan to End Homelessness in King County.

### 3. Study Session

- (a) Council New Initiatives

[No new initiatives were introduced.]

- (b) Resolution No. 7323 authorizing execution of a Consent Decree in the lawsuit of *Temple B'nai Torah et al vs. City of Bellevue*, USDC No. C05-1921-JCC.

City Manager Steve Sarkozy explained that Resolution No. 7323 authorizes execution of a Consent Decree negotiated in the lawsuit of *Temple B'nai Torah et al vs. City of Bellevue*.

City Attorney Lori Riordan said she and staff participated in the negotiations that ultimately produced the Consent Decree. A court hearing regarding the 60-day vs. 90-day limit on homeless encampments was postponed to allow the parties to consider the Consent Decree. The hearing is now scheduled for January 26 should Council decline to approve Resolution No. 7323. The Consent Decree, if approved by Council, will be submitted to the court for consideration.

Kate Berens, Deputy City Attorney, said the Consent Decree settles all of the claims brought by all of the parties – SHARE, Temple B'nai Torah, and the Church Council of Greater Seattle. Ms. Berens clarified that WHEEL (as in SHARE/WHEEL) is not a separate legal entity and its operations are part of the SHARE organization. As such, WHEEL will be bound by the Consent Decree.

The Consent Decree adopts certain interpretations and clarifications of the ordinance but does not require Council to amend the existing ordinance. All parties agree that the interpretations provided in the Consent Decree are valid and accommodate the exercise of religious freedom. Key provisions of the Consent Decree are as follows:

- The Process V permitting procedure created by Council will continue.

- Applicants will continue to be required to submit an encampment management plan regarding security measures and other operational issues.
- Requirements for setbacks and fencing will be continued.
- Encampments will continue to be restricted to once every 18 months at a particular site.
- Encampment stays of 90 days, if requested, will be granted if supported by a bona fide and sincere statement from a religious leader that the 60-day stay would present a substantial burden.
- One shower will be required at the encampment site unless it is determined to be not feasible due to cost. If a shower is not present, the camp sponsor will be obligated to provide transportation to nearby shower facilities.
- Tent City 4 currently has four toilets. The Consent Decree specifies that the City of Bellevue will secure funds to cover cleaning of more than four toilets, if applicable. More than five toilets will not be required if it would displace tents for residents.
- The requirement for mechanical refrigeration has been changed to allow ice chests and coolers as long as appropriate temperatures are maintained.
- The Consent Decree adds a provision to allow one encampment in the city per calendar year beginning May 2007.

Responding to Deputy Mayor Degginger, Ms. Berens said the Consent Decree states that the City's temporary encampments ordinance is constitutional and does not violate the free expression of religion.

Responding to Councilmember Lee, Ms. Berens said staff feels the Consent Decree is the best mechanism for settling the lawsuit. As an option, a settlement agreement could have been developed separately from the court.

Responding to Councilmember Noble, Ms. Berens said the Director of Planning and Community Development would make the determination regarding any requests for a 90-day stay.

Responding to Dr. Davidson, legal staff opined that the Consent Decree would be relevant in any future legal action against the City's ordinance alleging it is unconstitutional.

Responding to Mr. Chelminiak, Ms. Berens confirmed that the maximum limit of 100 encampment residents is contingent upon the size and nature of the proposed site. The PCD Director could restrict an encampment to fewer residents.

Councilmember Balducci said she is pleased with the work of Council, staff, and the other parties to develop this agreement.

- ➡ Councilmember Balducci moved to approve Resolution No. 7323, and Mr. Noble seconded the motion.

Ms. Balducci noted that the major protections (i.e., public notice requirement, security measures, setback and fencing requirements, encampment management responsibility plan, code of conduct, and insurance provisions) originally adopted by the Council remain in effect. She is pleased with the new provision, in response to residents' concerns, restricting encampments in

Bellevue to once every 12 months. Additionally, the Consent Decree provides enhanced flexibility for congregations working to help the homeless.

Mrs. Marshall feels there is no winner in this settlement on an issue that has divided the community more than any other. She described Council's efforts to reach a compromise in which both sides achieved objectives and conceded some issues. Mrs. Marshall noted Council's support of the Ten-Year Plan to End Homelessness in King County. She supports the Resolution.

Dr. Davidson will not support the motion. He feels homeless encampments with substandard living conditions are not an appropriate or adequate solution. Dr. Davidson is disappointed that SHARE and the faith community do not recognize the importance of basic health and sanitary conditions. He expressed particular concern regarding the absence of hot water for hand washing and the use of ice chests for storing food.

Mr. Chelminiak concurred with Dr. Davidson's concerns regarding health and sanitation practices. He does not understand why encampment sponsors and churches have taken a position against public health protections. Mr. Chelminiak shared a declaration from the legal case regarding a pastor from a Shoreline church that hosted Tent City 3. The pastor said SHARE wanted the church to open the encampment and to not work with the City or neighbors. The pastor was disturbed that SHARE appeared to be using the encampment to make a political statement. Mr. Chelminiak thanked Temple B'nai Torah for working to ensure its site is the cleanest and best camp that has been sponsored on the Eastside. He praised ongoing projects by the St. Andrew's Housing Group, which receives partial support from the City of Bellevue.

Mr. Chelminiak will reluctantly support the Resolution. He is pleased the Consent Decree acknowledges that the City's ordinance is constitutional and does not interfere with religious expression or ministry. He feels the limit on one encampment every 12 months within the City is responsive to residents' concerns.

Mr. Lee agrees with Mrs. Marshall that neither side won in this situation and he is concerned with how the issue of homeless encampments divided the community. He noted the City's support of housing and social service programs through ARCH (A Regional Coalition for Housing) and funding to local agencies. Mr. Lee will not support the motion because he feels it represents a short-term resolution that does not adequately address the problem of homelessness. He feels strongly that local jurisdictions must retain their authority over land use decisions. He is concerned about the implications of placing religious rights above all other rights. Mr. Lee advocates not signing the Consent Decree and letting the court decide the lawsuit.

Mr. Noble supports the Resolution. He favors a Consent Decree with provisions determined by the parties rather than a decision by a third party. He feels the Consent Decree fully addresses the City's ordinance and concerns.

Mayor Degginger recalled that months ago the City of Bellevue was asked to follow the City of Seattle's Consent Decree regarding homeless encampments. That Consent Decree had no standards, no public process, no setback requirements, and no accountability. The Bellevue City

Council chose to engage its residents in a dialogue to determine what would be best for this community. Mr. Degginger explained that the parties engaged in negotiations to produce the Consent Decree because that is what is expected of litigants by the courts.

- ☛ The motion to approve Resolution No. 7323 carried by a vote of 5-2, with Councilmembers Davidson and Lee opposed.

4. Executive Session

At 7:13 p.m., Mayor Degginger announced recess to Executive Session for approximately three hours to discuss one item of pending litigation.

At 10:15 p.m., the Executive Session concluded and the meeting was adjourned.

Myrna L. Basich  
City Clerk

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